

April 15, 2004

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404  
Seattle, Washington 98104  
Telephone (206) 296-4660  
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**REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: King County Department of Transportation File No. **V-2429**  
Proposed Ordinance No. **2004-0120**

**WILLIAM GOODWIN**  
Road Vacation Petition

Location: Portion of 104th Avenue Southeast, Kent

Petitioner: **William Goodwin**  
25115 Southeast 367th Way  
Enumclaw, WA 98022  
Telephone: (206) 979-7172

King County: Department of Transportation,  
Road Services Division, *represented by*  
**Tommy Burdette**  
201 S. Jackson St.  
Seattle, WA 98104-3856  
Telephone: (206) 296-3731  
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for item no. V-2429 was received by the Examiner on April 2, 2004.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on item no. V-2429 was opened by the Examiner at 9:33 a.m., April 14, 2004, in the Hearing Examiner's conference room, 400 Yesler Way, Room 404, Seattle, Washington, and closed at 9:50 a.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & RECOMMENDATION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. General Information:

Road name and location:	Portion of 104th Avenue Southeast, Kent
Right of way classification:	B
Area:	4,957 square feet
Compensation:	\$5,242.03

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the April 14, 2004, public hearing and the statement of facts contained in Proposed Ordinance No. 2004-0120. The Department's report will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.
5. The cul-de-sac portion of the proposed vacation area was acquired in fee by the Washington Department of Transportation in 1992 at a cost of \$11,400 and quitclaimed to King County in 2000 at no cost.

**CONCLUSIONS:**

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

4. There is a conflict between the Road Services Division's report and the proposed ordinance prepared by staff for this proceeding. The proposed ordinance designates the entire vacation area as "B-class" with \$5244.03 compensation due based on 75% of assessed value. The staff report, on the other hand, describes the portion of the vacation area comprising the cul-de-sac relinquished by the Washington Department of Transportation as "A-class" based on the fact that the State expended public funds to condemn this part of the right-of-way. If the staff report analysis is correct, the compensation due would rise to nearly \$6000 as a result of the Petitioner's obligation to pay the full appraised property value for the cul-de-sac.
5. KCC 14.40.060 defines road classes for vacation purposes as follows:
  - A. A Class. All King County roads or other real property interests conveyed to or held by King County for road purposes for which public funds have been expended in the acquisition of said road or property interests are classified A-class roads.
  - B. B Class. All King County roads or other real property interests conveyed to or held by King County for road purposes acquired at no monetary cost to the county and for which expenditures of funds have been made in the improvement or maintenance of same are classified B-class roads.
  - C. C Class. All King County roads or other real property interests conveyed to or held by King County for road purposes for which no public funds have been expended in the acquisition, improvement or maintenance of same, excluding roads subject to vacation as a matter of law, are classified C-class roads.
  - D. D Class. All King County roads or other real property interests originally conveyed to King County by the present petitioner for the vacation of said road or property interests for which no public expenditures have been made in the acquisition, improvement or maintenance of same, or any other road not included within classes A, B or C are classified D-class roads. (Ord. 2759 § 1, 1976).
6. There is an apparent inconsistency between KCC 14.40.060.A and B to the extent that the term "public funds" potentially includes expenditures involving "no monetary cost to the County." Such is the case here. The State paid for the cul-de-sac property but deeded it to the County at no cost. It is our view that the definition stated at KCC 14.40.060.B both is more precise and more consistent with the intent of the ordinance. Therefore it should control the disposition of the petition. The purpose of the compensation requirement is to recover the County's costs, not those of other agencies that have not been passed through. The other references to expenditure of public funds in the subsections above should be read as including only the County's expenditures. Thus, the designation of the entire vacation area as a "B-Class" as set forth in the proposed ordinance is the correct determination.
7. The Road Services Division has also decided that the County's fee ownership of the cul-de-sac property needs to be conveyed to the Petitioner pursuant to procedures for disposing of surplus property. There is a \$320 administrative fee attached to this process which will be the responsibility of the Petitioner to pay.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2004-0120 to vacate the subject road.

RECOMMENDED this 15th day of April, 2004.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 15th day of April, 2004, to the following parties and interested persons:

Baima & Holmberg, Inc  
ATTN: James R. Bergsma  
100 Front Street South  
Issaquah WA 98027

Don Dauphiny  
Qwest Communications  
1200 12th Ave. NW  
Issaquah WA 98027

Terry Davis  
Comcast, Inc.  
410 Valley Ave. NW  
Puyallup WA 98371

Bill Goodwin  
25115 SE 367th Way  
Enumclaw WA 98022

Mary Lamping  
Puget Sound Energy  
411 - 108th Ave. NE  
Bellevue WA 98009-9734

Soos Creek Water and Sewer District  
PO Box 58039  
Renton WA 98058-1039

Tommy Burdette  
King County DOT  
Rd. Services Div.  
MS KSC-TR-0231

Neil DeGoojer  
DNRP/WLRD  
MS KSC-NR-0600

Sarah Gagnon  
DNRP - Wastewater Trtmt.  
MS KSC-NR-0503

Larry Gettle  
DNRP  
Storm Water Services  
MS KSC-NR-0600

Nancy Gordon  
King County DOT  
Transit/D&C  
MS KSC-TR-0431

Dennis Gorley  
Dept of Transportation  
Road Services Division  
MS KSC-TR-0231

David Gualtieri  
KCDOT  
Comp Long Range Planning  
MS KSC-TR-0813

Denise Hauck  
KC Dept. of Exec. Svcs.  
MS ADM-ES-0500

Rich Hudson  
DDES/LUSD  
Current Planning  
S OAK-DE-0100

Fatin Kara  
KC DOT/Rd. Svcs. Div.  
MS KSC-TR-0222

Roderick E. Matsuno  
KC DOT  
Road Maint. Section  
MS RSD-TR-0100

Paulette Norman  
KCDOT  
Roads Division  
MS-KSC-TR-0231

Robert Nunnenkamp  
KC Parks and Recreation  
MS KSC-NR-0700

Lydia Reynolds-Jones  
KC DOT  
Project Support Serv.  
MS KSC-TR-0231

Charlie Sundberg  
Office of Cultural Res.  
Landmarks & Heritage Prog.  
MS STR-CR-0200

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before April 29, 2004*. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before May 6, 2004*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE APRIL 14, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. V-2429.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Tommy Burdette, representing the Department of Transportation.

The following exhibits were offered and entered into the record:

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|---------------|--|
| Exhibit No. 1 | DOT Report to the Hearing Examiner dated April 14, 2004, with 15 attachments.  |
| Exhibit No. 2 | Petition transmittal letter dated 4/13/2001 to the Department of Transportation from the Clerk of Council.                               |
| Exhibit No. 3 | Letter dated 03-21-01 of explanation and Petition for Vacation of a County Road including legal descriptions of Petitioner's properties. |

Exhibit No. 4	Copy of filing fee - check 00462 from Petitioners dated 04-13-01
Exhibit No. 5	Letter dated April 24, 2001, to Petitioner explaining process and identifying error in legal description and providing corrected Petition for Vacation of a County Road
Exhibit No. 6	Vicinity map.
Exhibit No. 7	Map depicting vacation area.
Exhibit No. 8	Copy of Quit Claim Deed number 1023734
Exhibit No. 9	Copy of Decree of Appropriation in Superior Court Cause No. 91-2-28115-7
Exhibit No. 10	Letter dated June 1, 2001 from the City of Kent reporting no objections to this street vacation request.
Exhibit No. 11	Letter dated 06-18-01 from WSDOT transmitting Quit Claim Deed 20000428001691
Exhibit No. 12	Letter dated 07-10-01 from WSDOT transmitting Quit Claim Deed for signatures.
Exhibit No. 13	Copy of letter 07-25-01 returning signed Quit Claim Deed
Exhibit No. 14	Letter dated 01-09-02 from Baima & Holmberg Inc., transmitting a copy of Quit Claim Deed 20010809001147
Exhibit No. 15	Copy of letter dated 10-01-02 from RSD to WSDOT regarding Turnback language, with Hearing Examiner decision and site plan for Copper Hill subdivision,
Exhibit No. 16	Letter dated 10-29-02 from WSDOT to RSD declining approval.
Exhibit No. 17	Copy of letter dated 11-19-02 from DDES to WSDOT responding to WSDOT's denial letter.
Exhibit No. 18	Letter dated 07-16-03 from WSDOT to KCDOT approving the road vacation.
Exhibit No. 19	Letter dated 09-16-03 to petitioner identifying DOT recommendation and requesting compensation. Compensation calculations detailed in compensation worksheet.
Exhibit No. 20	Transmittal letter dated 03-25-04 to Council providing recommendation of KCDOT and County Road Engineer.
Exhibit No. 21	Copy of compensation check no. 2301 and deposit receipt no. 59358.
Exhibit No. 22	Ordinance transmittal letter dated 02-24-04 from King County Executive to Council member Larry Phillips
Exhibit No. 23	Proposed Ordinance 2004-0120
Exhibit No. 24	Copy of memo to Property Services Division with attachments, dated 03-18-04.
Exhibit No. 25	Property Services email response dated 03-30-04.
Exhibit No. 26	Notice of hearing, dated 03-24-04.
Exhibit No. 27	Affidavit of posting for hearing.
Exhibit No. 28	Affidavit of Publication for date of hearing ( <i>to be submitted upon receipt</i> )
Exhibit No. 29	Letter to James Bergsma dated 04-05-04 re: hearing date/time & enclosed staff report
Exhibit No. 30	Letter to Petitioner dated 04-05-04 re: hearing date/time & enclosed staff report

SLS:ms  
V-2429 RPT

Attachments